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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,

v.

APPLE INC.,

Defendant, Counterclaimant.

Case No. 4:20-CV-05640-YGR-TSH

**JOINT STIPULATION AND [PROPOSED]
ORDER REGARDING UNRESOLVED
MOTIONS FOR RELIEF**

Courtroom: 1, 4th Floor

Judge: Hon. Yvonne Gonzalez Rogers

1 WHEREAS, on December 23, 2024, the Court entered the Joint Stipulation and Order
2 Approving Privilege Re-Review Protocol (the “Protocol”) (Dkt. 1092) regarding the review and
3 adjudication of various privilege assertions made by Apple Inc. (“Apple”) in this post-judgment
4 proceeding;

5 WHEREAS, the Protocol establishes that a panel of three Special Masters will review
6 documents withheld or redacted by Apple for privilege;

7 WHEREAS, the Protocol establishes that the parties may file objections to Special Master
8 determinations with Magistrate Judge Hixson within four court days from the issuance of such
9 determinations;

10 WHEREAS, the parties each filed numerous such objections pursuant to the Protocol;

11 WHEREAS, Magistrate Judge Hixson ruled on all of the parties’ timely objections in orders
12 issued January 28, 2025 (Dkt. 1139), January 31, 2025 (Dkts. 1150, 1157), February 13, 2025
13 (Dkt. 1209), February 18, 2025 (Dkts. 1242, 1251), February 20, 2025 (Dkt. 1264), May 15, 2025
14 (Dkt. 1562), May 16, 2025 (Dkt. 1567), May 30, 2025 (Dkt. 1629) and June 10, 2025 (Dkt. 1641);

15 WHEREAS, Federal Rule of Civil Procedure 72(a) permits parties to file motions seeking
16 relief from an order of a Magistrate Judge within 14 days of being served with a copy of the order;

17 WHEREAS, the parties have each filed motions seeking relief from some or all of the above
18 rulings of Magistrate Judge Hixson, on February 11, 2025 (Dkt. 1193), February 14, 2025
19 (Dkt. 1221), February 27, 2025 (Dkt. 1285), March 4, 2025 (Dkts. 1298, 1305), May 29, 2025
20 (Dkts. 1618, 1622), May 30, 2025 (Dkt. 1625), and June 24, 2025 (Dkt. 1647) (collectively, the
21 “Unresolved Motions”);

22 WHEREAS, the Court has indicated that it may issue substantive rulings on the Unresolved
23 Motions but has not done so as of the date of this stipulation;

1 WHEREAS, the Court issued an order on April 30, 2025 disposing of several other pending
2 motions, including Epic Games, Inc.’s Motion to Enforce Injunction (Dkt. 1508);

3 WHEREAS, Apple filed a timely appeal from the Order of April 30, 2025 (Dkt. 1521),
4 which is pending before the Ninth Circuit;

5 WHEREAS, Apple has raised in that appeal certain issues related to the Court’s reliance on
6 documents Apple contends were privileged, the resolution of which may affect the Unresolved
7 Motions;

8 WHEREAS, Apple stated in its opening brief on appeal: “Once the district court finally
9 resolves all privilege issues, Apple intends to file a separate appeal challenging the court’s privilege
10 rulings.” USCA No. 25-2935, Dkt. 59-1 at 62 n.6;

11 WHEREAS, Apple intends to pursue such an appeal regardless of the Ninth Circuit’s
12 disposition of the pending appeal;

13 WHEREAS, Apple does not waive and explicitly reserves any arguments it may have in
14 support of such additional appeal, including but not limited to arguments as to its timeliness; and

15 WHEREAS, Epic does not waive and explicitly reserves any arguments it may have in
16 opposition to such additional appeal, including but not limited to arguments as to its timeliness;

17 **THEREFORE, IT IS STIPULATED AND AGREED THAT:**

18 1. Pursuant to agreement of the parties and the inherent power of the Court, decision
19 on the Unresolved Motions is stayed pending the Ninth Circuit’s decision in Apple’s appeal from
20 the Order of April 30, 2025. The provision in Local Rule 72-2(d) that some motions are deemed
21 denied after the passage of time does not apply to the Unresolved Motions.

22 2. Within two weeks of the Ninth Circuit’s decision, either party may withdraw any
23 portion of its respective Unresolved Motions or submit supplemental authority relevant to those
24 Motions based on the Ninth Circuit’s decision.

3. Nothing herein shall be construed as a waiver of the opportunity to respond to any Unresolved Motions by the party opposing such a motion. If the Court wishes to receive responses to the Unresolved Motions, it shall establish a schedule for such responses, or order the parties to agree on such a schedule, if necessary after the Ninth Circuit's decision.

4. Nothing herein shall be construed to prejudice either party's right to appeal from the Court's ruling(s) on any Unresolved Motions following the Ninth Circuit's decision, nor shall anything herein be construed to prejudice in any way either party's arguments on any ground in opposition to any such appeals.

DATED: July 24, 2025

By: /s/ Yonatan Even

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Dated: July 24, 2025

By: /s/ Mark A. Perry

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1 **PURSUANT TO THE FOREGOING STIPULATION AND GOOD CAUSE APPEARING,**
2 **IT IS SO ORDERED.**

3 Dated: _____

4 _____
HON. YVONNE GONZALEZ ROGERS

E-FILING ATTESTATION

I, Mark Perry, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Mark A. Perry

Mark A. Perry